

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reissue Application of:)
)
JAMES W. SCHIEK, SR.)
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Assignee:)
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SCHIEK'S SPORTS, INC.)
)
Patent No. 6,053,883)
Serial No.: 08/290,678)
Filed: August 15, 1994)
)
Which is a Continuation of)
Serial No. 08/023,300)
Filed: February 26, 1993)
)
Which is a continuation of)
Serial No. 07/728,742)
Filed: July 12, 1991)
)
Issued: April 25, 2000)
)
SUPPORT AND UTILITY BELT)

DECLARATION FOR REISSUE
APPLICATION UNDER 37 C.F.R. 1.175

STATEMENT OF INOPERATIVENESS OR INVALIDITY
OF ORIGINAL PATENT (37 C.F.R. 1.175)

I, John Schiek, as Vice President of Schiek's Sports, Inc, a Wisconsin corporation, declare as follows:

1. Schiek's Sports, Inc. is the assignee from the inventor, James W Schiek, Sr., and is full owner of all right, title and interest in U.S. Patent No. 6,053,883 as evidenced by the Assignment filed with the Patent Office on June 19, 2000.
2. Schiek's Sports is located at the address shown below.
3. I believe that the inventor, James W. Schiek, Sr. is the original, first, and sole inventor of the subject matter which is described and claimed in the present reissue application of U.S. Patent No. 6,053,883.
4. I do not know and do not believe that the invention was ever known or used in the U.S. before the invention by James W. Schiek, Sr.
5. The inventor, James W. Schiek, Sr. has refused to sign any additional documentation related to U.S. Patent No. 6,053,883 without additional compensation, to which he is not entitled.
6. The last known address of the inventor, James W. Schiek, Sr., is Schiek Ideas, 6856 Howlett Road, Oshkosh, Wisconsin 54901.
7. As set forth in more detail below, this application is necessary to preserve the rights of Schiek's Sports, Inc. and to prevent irreparable damage to Schiek's Sports, Inc. from third party infringers.
8. I hereby state that I have reviewed and understood the contents of the specifications and claims of the original patent, the present reissue application, and the amendments to the claims herein.
9. I acknowledge my duty to disclose information which is known to be material to the patentability of this application in accordance with 37 C.F.R. §1.56.
10. I verily believe the original patent to be partly inoperative by reason of the inventor claiming less than he had a right to claim in the original patent. I believe this error arose without any deceptive intent on the inventor's part.

Specifically, the defect in the original patent is the inclusion in the two independent claims, namely Claims 1 and 7, of *two* means for fastening the support and utility belt around the waist. Although the preferred embodiment would include two such fastening means, the novelty of the invention does not arise in the recited fastening means. Rather, the novelty of the

invention lies in the uniquely contoured shape of the support belt that combines back support with increased abdominal support. This was evidenced in the lengthy examination and appeal process in which the non-obviousness of the contoured shape was established by the Board of Patent Appeals and Interferences. Thus in order to protect the full scope of the invention, it is necessary to provide protection against the use of a contoured shaped belt regardless of the specific details of the fastening means. The narrow claims of the original patent do not adequately protect the invention.

This error was discovered as Schiek's Sports prepared to enforce its rights under the patent against competitors who have copied the unique patented contoured design for their own support belts. The error was discovered shortly after the patent issued, in May 2000, when the patent was reviewed with respect to potential infringers. The reissue application seeks to clarify and more fully protect the invention to which Schiek's Sports has rights.

This error arose as a result of drafting the claims to cover the preferred embodiment of the invention. When the claims were drafted there were no other manufacturers making such a belt and the particular fastening means were not thought to be an issue. It is an error that arose without any deceptive intent and was merely an oversight.

The reissue application seeks to correct these errors and protect the full scope of the invention by deleting the references to *two* fastening means from Claims 1 and 7, and instead simply reciting *a* fastening means, thereby encompassing *one or more* fastening means. Dependent Claims 2, 5 and 8 have been amended to encompass the deleted language from Claims 1 and 7. New Claim 12 has been added in dependent form to include the content that was removed from the original Claim 1. Specifically, Claim 1 now simply recites a fastening means, thereby encompassing not only a single (as opposed to two or more) fastening means, but a fastener of any type, whether it be a hook and loop type fastener, a cinchable type fastener or otherwise. Claim 2 incorporates a second fastening means into the limitations of Claim 1, and describes such a second fastening means as being a cinchable strap and ring type fastener. Claim 5 modifies Claim 1 by reciting that the first fastening means is a hook and loop type fastener. Claim 7 has been amended to recite a contoured shape belt with a fastening means of the cinchable strap and ring type. Claim 8 has added to Claim 7 a second fastening means of the

hook and loop type. Finally, new dependent Claim 12 has been added to recite that the first fastening means of Claim 1 is a cinchable strap and ring type fastener.

Specifically, I have reviewed and approved amendments to the claims as follows, wherein underlining indicates added material and brackets indicates deleted material:

1. A support belt adapted for encircling and being secured to the waist of a wearer for providing both back and abdominal muscle support during strenuous activity while providing a non-interfering support and a non-interfering fit with the skeletal structure of the ribs and hips of the wearer, the belt comprising:
 - a. an elongate base having a longitudinal axis and opposite outer ends and of a length sufficient to encircle the waist of the wearer, the base including an enlarged back support area and an enlarged abdominal support area, each area of a first fixed predetermined vertical height and each area being integral within the base, **[and made of a semi-rigid material wrapped in a flexible cloth for comfort]**, the areas being disposed within the base such that the areas are opposite one another when the belt is encircling the waist of the wearer;
 - b. reduced side areas within the base, having a second predetermined vertical height smaller than said first predetermined vertical height and disposed intermediately of the back support and abdominal support areas and opposite one another between the hips and ribs of the wearer when the belt is encircling the waist, said reduced side areas being sized to allow the belt to be sufficiently tightened against the back and abdominal walls without encountering the skeletal structure of the ribs or hips of the wearer thereby evenly distributing and providing optimum support to both the back and abdominal walls and accommodate bending and side-to-side motion of the wearer; **and**
 - c. a first fastening means **[comprising a first pad portion at one end of the base and a second pad portion disposed at the other end of the base, the first and second pad portions adapted to be placed in overlying,]** for releasably securing **[secured relationship with one another when]** the belt **[is encircling]** to encircle the waist of the wearer[;]

d. an elongate strap of flexible, generally non-stretchable material secured to and coaxial with the base, and having free opposite ends;

e. a second, cinchable fastening means on the strap comprising a fastener secured to one of said strap ends and a flap on the other end adapted to be received in and secured by said fastener and cinched to fit when the belt is placed around the waist of the wearer; and

f. means for securing the first fastening means after the belt is properly cinched].

2. The support belt of claim 1, wherein the first fastening means comprises a first pad portion at one end of the base and a second pad portion disposed at the other end of the base, the first and second pad portions adapted to be placed in overlying, releasably secured relationship with one another when the belt is encircling the waist of the wearer; and further comprising a second fastening means comprising:

a. an elongate strap of flexible, generally non-stretchable material secured to one base end, coaxial with the base and having a free end;

b. a fastener secured to the other base end and adapted to receive and secure said free strap end and cinchable to fit when the belt is placed around the waist of the wearer; and

c. means for securing the first fastening means after the belt is properly cinched, wherein the first and second pad portions at the ends of the base define an abdominal support pad and the back support area further defines a back support pad.

5. The support belt of claim 1, the [second] first fastening means further comprising:
a first pad portion at one end of the base and a second pad portion disposed at the other end of the base, the first and second pad portions adapted to be placed in overlying, releasably secured relationship with one another when the belt is encircling the waist of the wearer,

[a. a] the first pad portion comprising a first [strap] hook and loop fastener pad [on the strap and disposed inwardly of the fastening means on said one end]; and

[b. a] the second pad portion comprising a second strap hook and loop fastener pad [on the flap and] complementary with the first [strap] hook and loop fastener pad[, whereby the flap means is secured to the belt when the belt is encircling the waist of the wearer].

7. A support belt adapted for encircling and being secured to the waist of a wearer for providing both back and abdominal muscle support during strenuous activity while providing a non-interfering fit with the skeletal structure of the ribs and hips of the wearer, the belt comprising:

a. an elongate base having a longitudinal axis and opposite outer ends and made of flexible material to accommodate the various movements of the waist and associated placement of the hips and ribs of the wearer;

b. an enlarged back support area having a first fixed predetermined vertical height and integral within the base such that the area supports the back of the wearer when the belt is encircling the waist of the wearer;

c. an enlarged first abdominal support portion located on one outer end of the base and having a fixed predetermined vertical height substantially the same as the first fixed predetermined vertical height of the back support and positioned to define an abdominal support area opposite the back support area and located in the vicinity of the abdominal wall of the wearer when the belt is encircling the waist;

d. an enlarged second abdominal support portion located on the other outer end of the base and the first abdominal support portion located on one outer end of the base and having a fixed predetermined vertical height coexistent with said first abdominal support height and positioned such that the abdominal support area is diametrically opposite the back support area and is located in the vicinity of the abdominal wall of the wearer when the belt is encircling the waist, said abdominal support portions adapted to be located in overlying relationship with one another when the belt is encircling the waist;

e. reduced side sections of the base having a second predetermined vertical height smaller than said first predetermined vertical height and located on the base intermediately of the areas and opposite one another between the hips and ribs of the wearer when the belt is encircling the waist, said reduced side sections being sized to allow the belt to be sufficiently tightened against both the back and abdominal walls without encountering the skeletal structure of the ribs or hips of the wearer thereby evenly distributing and providing optimum support to both the back and abdominal walls; and

[f. a first fastening means for releasably securing the base about the waist of the wearer;]

g. an elongate strap of flexible, generally non-stretchable material secured **adjacent one base end [to]** and coaxial with the base, and having **a free end [opposite ends];** and

h. a **[second,]** cinchable fastening means **[on the strap comprising a fastener]** secured to **[one of said strap ends] the other base end** and **[a flap]** adapted to be received in and secured by said **[fastener] elongated strap** and cinched to fit when the belt is placed around the waist of the wearer.

8. The support belt of claim 7, **[wherein said] further comprising a** second fastening means **[further]** which comprises:

a. a first strap hook and loop fastener pad on the strap and disposed inwardly of the fastener at said one end; and

b. a second strap hook and loop fastener pad on the flap and complementary with the first strap hook and loop fastener pad, whereby the flap may be secured to the belt when the belt is encircling the waist.

- 12. The support belt of claim 1, the first fastening means further comprising:**
- a. an elongate strap of flexible, generally non-stretchable material secured to one base end, coaxial with the base and having a free end;**
 - b. a fastener secured to the other base end and adapted to receive and secure said free strap end and cinchable to fit when the belt is placed around the waist of the wearer.**

I believe that this Declaration complies with 37 C.F.R. 1.175 and supports each and every change in the claims.

ACKNOWLEDGMENT OF DUTY OF CANDOR

I acknowledge the duty to disclose information which is material to the examination of this application namely, information where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Schiek's Sports, Inc.

Dated: July 12, 2000

By: _____

John A. Schiek

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